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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,728	05/29/2001	Marcel Gavrilu	06618/641001 / CIT 3221	3352
20985	7590	01/05/2004	EXAMINER	
FISH & RICHARDSON, PC 12390 EL CAMINO REAL SAN DIEGO, CA 92130-2081			NI, SUHAN	
			ART UNIT	PAPER NUMBER
			2643	12
DATE MAILED: 01/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

TS

# Office Action Summary

Application No.

09/681,728

Applicant(s)

GAVRILIU ET AL.

Examiner

Suhan Ni

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 13-22 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 14-22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-9 and 13 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This communication is responsive to the election with traverse dated 10/22/2003 and it is not found persuasive because:

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-3 and 5-9, 13, drawn to a method of acoustic damping for an acoustic enclosure (please see Fig. 1), classified in class 381, subclass 338.

II. Claims 1, 4, and 14-22, drawn to a method of vibration damping for a mechanical device (please see Fig. 2), such as a vehicle, classified in class 267, subclass 136.

3. The inventions are distinct, each from the other because of the following reason:

Inventions Group I and Group II are **unrelated**. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions of group I teaches an acoustic resonance device for receiving electrical input, and generating sound as an output for users; and group II shows a mechanical device, such as an automobile engine for generating mechanical output.

4. Because these inventions are distinct for the reasons giving above and have acquired a separate status in the art as shown by their different classifications, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

6. The requirement is still deemed proper and is therefore made **FINAL**.

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7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1-3, 5-9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koschwitz (DE-3818-552) in view of Rowley (US-3,555,187).

Regarding claims 1 and 13, Koschwitz discloses a resonance damping method, said method comprising: attaching a tunable damping element (5) to a resonating element (1-4); and increasing tension in said resonating element (6-7) for reducing an effect of acoustic stimulation by an sound source acting on said resonant element as claimed. But Koschwitz does not clearly teach of providing damping material as claimed. Rowley discloses a similar resonance damping method, comprising a tunable damping element (30) to a resonating element (10) with a sound damping material (26). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide the damping material taught by Rowley for the resonating element as an alternate choice, in order to provide more steady engagement and further reducing noise.

Regarding claims 2, Koschwitz further discloses the resonance damping method, wherein the tunable damping element includes a rod (5) connected to said resonating element, for increasing tightness of the tunable damping element (6-7) as claimed.

Regarding claims 3 and 5, Koschwitz further discloses the resonance damping method, wherein said resonating element includes a speaker enclosure (loudspeaker box) as claimed.

Regarding claims 6-9, Koschwitz does not clearly teach for providing washers as claimed. Rowley discloses a similar resonance damping method, comprising a tunable damping element (30) to a resonating element (10) with a sound damping material (26). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide the damping material taught by Rowley for the resonating element as an alternate choice, in order to provide more steady engagement and further reducing noise.

### ***Response to Amendment***

9. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY

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EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

11. Any response to this final action should be mailed to:

**Commissioner of Patents and Trademarks  
Washington, D.C. 20231**

or faxed to:

**(703) 308-9051**, (for formal communications; please mark "EXPEDITED  
PROCEDURE"), or

**(703) 305-9508**, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")


Hand-delivered responses should be brought to:

**Receptionist, Sixth Floor,  
Crystal Park II,  
2121 Crystal Drive,  
Arlington, Virginia 22202**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Suhan Ni** whose telephone number is **(703)-308-9322**, and the number for fax machine is **(703)-305-9508**. The examiner can normally be reached on Monday through Thursday from 9:00 am to 7:30 pm. If it is necessary, the examiner's supervisor, **Curtis Kuntz**, can be reached at **(703) 305-4708**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is **(703) 305-3900**.

Suhan Ni  
Patent Examiner  
Art Unit 2643  
USPTO

  
**SUHAN NI  
PATENT EXAMINER**

December 27, 2003